

By: Representative Tullos

To: Judiciary A

## HOUSE BILL NO. 618

1 AN ACT TO AMEND SECTION 23-15-975, MISSISSIPPI CODE OF 1972,  
2 TO INCLUDE JUSTICE COURT JUDGES IN THE "NONPARTISAN JUDICIAL  
3 ELECTION ACT"; TO AMEND SECTION 23-15-197, MISSISSIPPI CODE OF  
4 1972, TO PROVIDE THE TIME FOR HOLDING AN ELECTION FOR THE OFFICE  
5 OF JUSTICE COURT JUDGE; TO AMEND SECTION 23-15-977, MISSISSIPPI  
6 CODE OF 1972, TO PROVIDE THE QUALIFYING FEE FOR ELECTION TO THE  
7 OFFICE OF JUSTICE COURT JUDGE; TO AMEND SECTIONS 9-11-2,  
8 23-15-297, 23-15-359, 23-15-973 AND 23-15-1021, MISSISSIPPI CODE  
9 OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING  
10 FORWARD SECTIONS 23-15-193, 23-15-833 AND 23-15-849, MISSISSIPPI  
11 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR  
12 RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** Section 23-15-975, Mississippi Code of 1972, is  
15 amended as follows:

16 23-15-975. As used in Sections 23-15-974 through 23-15-985  
17 of this subarticle, the term "judicial office" includes the office  
18 of justice of the Supreme Court, judge of the Court of Appeals,  
19 circuit judge, chancellor, justice court judge, county court judge  
20 and family court judge. All such justices and judges shall be  
21 full-time positions and such justices and judges shall not engage  
22 in the practice of law before any court, administrative agency or  
23 other judicial or quasi-judicial forum except as provided by law



for finalizing pending cases after election to judicial office.

**SECTION 2.** Section 23-15-197, Mississippi Code of 1972, is amended as follows:

23-15-197. (1) Times for holding primary and general elections for congressional offices shall be as prescribed in Sections 23-15-1031, 23-15-1033 and 23-15-1041.

(2) Times for holding elections for the office of judge of the Supreme Court shall be as prescribed in Section 23-15-991 and Sections 23-15-974 through 23-15-985, and times for holding elections for the office of judge of the Court of Appeals shall be as prescribed in Section 9-4-5.

(3) Times for holding elections for the office of circuit court judge and the office of chancery court judge shall be as prescribed in Sections 23-15-974 through 23-15-985, and Section 23-15-1015.

(4) Times for holding elections for the office of county election commissioners shall be as prescribed in Section 23-15-213.

(5) Times for holding elections for the office of levee commissioner shall be as prescribed in Chapter 12, Laws of 1928; Chapter 574, Laws of 1968; Chapter 85, Laws of 1930; Chapter 317, Laws of 1983; and Chapter 438, Laws of 2010.

(6) Times for holding elections for the office of justice court judge shall be as prescribed in Section 23-15-193 and Sections 23-15-973 through 23-15-985.



49           **SECTION 3.** Section 23-15-977, Mississippi Code of 1972, is  
50 amended as follows:

51           23-15-977. (1) Except as otherwise provided in this  
52 section, all candidates for judicial office as defined in Section  
53 23-15-975 of this subarticle shall file their intent to be a  
54 candidate with the proper officials and pay the proper assessment  
55 by not later than 5:00 p.m. on March 1 of the year in which the  
56 general election for the judicial office is held. If March 1  
57 occurs on a Saturday, Sunday or legal holiday, candidates shall  
58 file their intent to be a candidate and pay the proper assessment  
59 by 5:00 p.m. on the business day immediately following the  
60 Saturday, Sunday or legal holiday. Candidates shall pay to the  
61 proper officials the following amounts:

62                   (a) Candidates for Supreme Court judge and Court of  
63 Appeals, the sum of Two Hundred Dollars (\$200.00).

64                   (b) Candidates for circuit judge and chancellor, the  
65 sum of One Hundred Dollars (\$100.00).

66                   (c) Candidates for county judge \* \* \*, family court  
67 judge and justice court judge, the sum of Fifteen Dollars  
68 (\$15.00).

69           Candidates for judicial office may not file their intent to  
70 be a candidate and pay the proper assessment before January 1 of  
71 the year in which the election for the judicial office is held.

72           (2) Candidates for judicial offices listed in paragraphs (a)  
73 and (b) of subsection (1) of this section shall file their intent



74 to be a candidate with, and pay the proper assessment made  
75 pursuant to subsection (1) of this section to, the State Board of  
76 Election Commissioners.

77 (3) Candidates for judicial offices listed in paragraph (c)  
78 of subsection (1) of this section shall file their intent to be a  
79 candidate with, and pay the proper assessment made pursuant to  
80 subsection (1) of this section to, the circuit clerk of the proper  
81 county. The circuit clerk shall notify the county election  
82 commissioners of all persons who have filed their intent to be a  
83 candidate with, and paid the proper assessment to, such clerk.  
84 The notification shall occur within two (2) business days and  
85 shall contain all necessary information.

86 (4) If only one (1) person files his or her intent to be a  
87 candidate for a judicial office and that person later dies,  
88 resigns or is otherwise disqualified from holding the judicial  
89 office after the deadline provided for in subsection (1) of this  
90 section but more than seventy (70) days before the date of the  
91 general election, the Governor, upon notification of the death,  
92 resignation or disqualification of the person, shall issue a  
93 proclamation authorizing candidates to file their intent to be a  
94 candidate for that judicial office for a period of not less than  
95 seven (7) nor more than ten (10) days from the date of the  
96 proclamation.

97 (5) If only one (1) person qualifies as a candidate for a  
98 judicial office and that person later dies, resigns or is



otherwise disqualified from holding the judicial office within seventy (70) days before the date of the general election, the judicial office shall be considered vacant for the new term and the vacancy shall be filled as provided in by law.

**SECTION 4.** Section 9-11-2, Mississippi Code of 1972, is amended as follows:

9-11-2. (1) From and after January 1, 1984, there shall be a competent number of justice court judges in each county of the state. The number of justice court judges for each county shall be determined as follows:

(a) In counties with a population, according to the latest federal decennial census, of thirty-five thousand (35,000) and less, there shall be two (2) justice court judges unless the board of supervisors, by resolution duly spread upon its minutes, finds that one (1) justice court judge is a competent number to adequately handle the needs of the citizens of the county.

(b) In counties with a population, according to the latest federal decennial census, of more than thirty-five thousand (35,000) and less than seventy thousand (70,000), there shall be three (3) justice court judges, unless the board of supervisors, by resolution duly spread upon its minutes, finds that two (2) is a competent number of justice court judges to adequately handle the needs of the citizens of the county.

(c) In counties with a population, according to the latest federal decennial census, of seventy thousand (70,000) and



less than one hundred fifty thousand (150,000), there shall be four (4) justice court judges, unless the board of supervisors, by resolution duly spread upon its minutes, finds that three (3) is a competent number of justice court judges to adequately handle the needs of the citizens of the county.

(d) In counties with a population, according to the latest federal decennial census, of one hundred fifty thousand (150,000) and more, there shall be five (5) justice court judges, unless the board of supervisors, by resolution duly spread upon its minutes, finds that four (4) is a competent number of justice court judges to adequately handle the needs of the citizens of the county.

(2) The board of supervisors shall establish single member election districts in the county for the nonpartisan election of each of the justice court judges authorized and required to be elected for the county under the provisions of subsection (1) of this section, and one (1) justice court judge shall be elected for each district by the electors \* \* \* of each district. In any county authorized and required under the provisions of subsection (1)(a) of this section to provide for the election of two (2) justice court judges for the county in which there are two (2) judicial districts, the smaller of such judicial districts, according to population based upon the latest federal decennial census, shall comprise or shall be wholly encompassed within one (1) of \* \* \* the election districts.



(3) (a) Nothing in this section shall be construed to authorize or require more than five (5) justice court judges in any one (1) county from and after January 1, 1984, nor to authorize or require an increase in the number of justice court judges for any county during the term of office of any justice court judge.

(b) Nothing in this section shall be construed to authorize or require a county to decrease the number of justice court judge positions in the county as of June 30, 2014.

**SECTION 5.** Section 23-15-297, Mississippi Code of 1972, is amended as follows:

23-15-297. All candidates upon entering the race for party nominations for office shall first pay to the proper officer as provided for in Section 23-15-299 for each primary election and all independent candidates and special election candidates shall pay to the proper officer as provided for in Section 23-15-299 the following amounts:

(a) Candidates for Governor, One Thousand Dollars (\$1,000.00).

(b) Candidates for Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Auditor of Public Accounts, Commissioner of Insurance, Commissioner of Agriculture and Commerce, State Highway Commissioner and State Public Service Commissioner, Five Hundred Dollars (\$500.00).



(c) Candidates for district attorney, State Senator and State Representative, Two Hundred Fifty Dollars (\$250.00).

(d) Candidates for sheriff, chancery clerk, circuit clerk, tax assessor, tax collector, county attorney, county superintendent of education and board of supervisors, One Hundred Dollars (\$100.00).

(e) Candidates for county surveyor, county coroner \* \* \* and constable, One Hundred Dollars (\$100.00).

(f) Candidates for United States Senator, One Thousand Dollars (\$1,000.00).

(g) Candidates for United States Representative, Five Hundred Dollars (\$500.00).

**SECTION 6.** Section 23-15-359, Mississippi Code of 1972, is amended as follows:

23-15-359. (1) Except as provided in this section, the ballot shall contain the names of all party nominees certified by the appropriate executive committee, and independent and special election candidates who have timely filed petitions containing the required signatures and assessments that must be paid pursuant to Section 23-15-297, if the candidates and nominees meet all of the qualifications to hold the office sought. A petition requesting that an independent or special election candidate's name be placed on the ballot for any office shall be filed as provided for in subsection (3) or (4) of this section, as appropriate, and shall



be signed by not less than the following number of qualified electors:

(a) For an office elected by the state at large, not less than one thousand (1,000) qualified electors.

(b) For an office elected by the qualified electors of a Supreme Court district, not less than three hundred (300) qualified electors.

(c) For an office elected by the qualified electors of a congressional district, not less than two hundred (200) qualified electors.

(d) For an office elected by the qualified electors of a circuit or chancery court district, not less than one hundred (100) qualified electors.

(e) For an office elected by the qualified electors of a senatorial or representative district, not less than fifty (50) qualified electors.

(f) For an office elected by the qualified electors of a county, not less than fifty (50) qualified electors.

(g) For an office elected by the qualified electors of a supervisors district or justice court district, not less than fifteen (15) qualified electors.

(h) For the Office of President of the United States, a party nominee or independent candidate shall pay an assessment in the amount of Two Thousand Five Hundred Dollars (\$2,500.00).



221           (2)   (a)   Unless the petition or fee, whichever is  
222   applicable, required above shall be filed as provided for in  
223   subsection (3), (4) or (5) of this section, as appropriate, the  
224   name of the person requested to be a candidate, unless nominated  
225   by a political party, shall not be placed upon the ballot. The  
226   ballot shall contain the names of each candidate for each office,  
227   and the names shall be listed under the name of the political  
228   party that candidate represents as provided by law and as  
229   certified to the circuit clerk by the state executive committee of  
230   the political party. In the event the candidate qualifies as an  
231   independent as provided in this section, he or she shall be listed  
232   on the ballot as an independent candidate.

233           (b)   The name of an independent or special election  
234   candidate who dies before the printing of the ballots, shall not  
235   be placed on the ballots.

236           (3)   Petitions for offices described in paragraphs (a), (b),  
237   (c), (d) and (e) of subsection (1) of this section shall be filed  
238   with the Secretary of State by no later than 5:00 p.m. on the same  
239   date or business day, as applicable, by which candidates are  
240   required to pay the fee provided for in Section 23-15-297;  
241   however, no petition may be filed before January 1 of the year in  
242   which the election for the office is held.

243           (4)   Petitions for offices described in paragraphs (f) and  
244   (g) of subsection (1) of this section shall be filed with the  
245   proper circuit clerk by no later than 5:00 p.m. on the same date



by which candidates are required to pay the fee provided for in  
Section 23-15-297; however, no petition may be filed before  
January 1 of the year in which the election for the office is  
held. The circuit clerk shall notify the county election  
commissioners of all persons who have filed petitions with the  
clerk. The notification shall occur within two (2) business days  
and shall contain all necessary information.

(5) The assessment for the office described in paragraph (h)  
of subsection (1) of this section shall be paid to the Secretary  
of State. The Secretary of State shall deposit any qualifying  
fees received from candidates into the Elections Support Fund  
established in Section 23-15-5.

(6) The election commissioners may also have printed upon  
the ballot any local issue election matter that is authorized to  
be held on the same date as the regular or general election  
pursuant to Section 23-15-375; however, the ballot form of the  
local issue must be filed with the election commissioners by the  
appropriate governing authority not less than sixty (60) days  
before the date of the election.

(7) The provisions of this section shall not apply to  
municipal elections or to the election of the offices of justice  
of the Supreme Court, judge of the Court of Appeals, circuit  
judge, chancellor, county court judge \* \* \*, family court judge  
and justice court judge.



270           (8) Nothing in this section shall prohibit special elections  
271 to fill vacancies in either house of the Legislature from being  
272 held as provided in Section 23-15-851. In all elections conducted  
273 under the provisions of Section 23-15-851, there shall be printed  
274 on the ballot the name of any candidate who, not having been  
275 nominated by a political party, shall have been requested to be a  
276 candidate for any office by a petition filed with the Secretary of  
277 State and signed by not less than fifty (50) qualified electors.

278           (9) (a) The appropriate election commission shall determine  
279 whether each candidate is a qualified elector of the state, state  
280 district, county or county district they seek to serve, and  
281 whether each candidate meets all other qualifications to hold the  
282 office he or she is seeking or presents absolute proof that he or  
283 she will, subject to no contingencies, meet all qualifications on  
284 or before the date of the general or special election at which he  
285 or she could be elected to office. The election commission shall  
286 determine whether the candidate has taken the steps necessary to  
287 qualify for more than one (1) office at the election. The  
288 election commission also shall determine whether any candidate has  
289 been convicted (i) of any felony in a court of this state, (ii) on  
290 or after December 8, 1992, of any offense in another state which  
291 is a felony under the laws of this state, (iii) of any felony in a  
292 federal court on or after December 8, 1992, or (iv) of any offense  
293 that involved the misuse or abuse of his or her office or money  
294 coming into his or her hands by virtue of the office. Excepted



from the above are convictions of manslaughter and violations of the United States Internal Revenue Code or any violations of the tax laws of this state.

(b) If the appropriate election commission finds that a candidate either (i) is not a qualified elector, (ii) does not meet all qualifications to hold the office he or she seeks and fails to provide absolute proof, subject to no contingencies, that he or she will meet the qualifications on or before the date of the general or special election at which he or she could be elected, or (iii) has been convicted of a felony or other disqualifying offense as described in paragraph (a) of this subsection, and not pardoned, then the election commission shall notify the candidate and give the candidate an opportunity to be heard. The election commission shall mail notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, email and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove that he or she meets all qualifications to hold the office subject to no contingencies, then the name of such candidate shall not be placed upon the ballot. If the appropriate election commission determines that the candidate has taken the steps necessary to qualify for more than one (1) office at the election, the action required by Section 23-15-905, shall be taken.



(10) If after the deadline to qualify as a candidate for an office or after the time for holding any party primary for an office, only one (1) person has duly qualified to be a candidate for the office in the general election, the name of that person shall be placed on the ballot; provided, however, that if not more than one (1) person duly qualified to be a candidate for each office on the general election ballot, the election for all offices on the ballot shall be dispensed with and the appropriate election commission shall declare each candidate elected without opposition if the candidate meets all the qualifications to hold the office as determined pursuant to a review by the election commission in accordance with the provisions of subsection (9) of this section and if the candidate has filed all required campaign finance disclosure reports as required by Section 23-15-807.

(11) The petition required by this section may not be filed by using the Internet.

**SECTION 7.** Section 23-15-973, Mississippi Code of 1972, is amended as follows:

23-15-973. It shall be the duty of the judges of the circuit court to give a reasonable time and opportunity to the candidates for the office of judge of the Supreme Court, judges of the Court of Appeals, circuit judge \* \* \*, chancellor and justice court judge to address the people during court terms. In order to give further and every possible emphasis to the fact that the \* \* \* judicial offices are not political but are to be held without



345 favor and with absolute impartiality as to all persons, and  
346 because of the jurisdiction conferred upon the courts by this  
347 chapter, the judges \* \* \* of those offices should be as far  
348 removed as possible from any political affiliations or  
349 obligations. It shall be unlawful for any candidate for any of  
350 the offices mentioned in this section to align himself or herself  
351 with any candidate or candidates for any other office or with any  
352 political faction or any political party at any time during any  
353 primary or general election campaign. Likewise it shall be  
354 unlawful for any candidate for any other office nominated or to be  
355 nominated at any primary election, wherein any candidate for any  
356 of the judicial offices in this section mentioned, is or are to be  
357 nominated, to align himself or herself with any one or more of the  
358 candidates for \* \* \* the offices or to take any part whatever in  
359 any nomination for any one or more of \* \* \* the judicial offices,  
360 except to cast his or her individual vote. Any candidate for any  
361 office, whether nominated with or without opposition, at any  
362 primary wherein a candidate for any one (1) of the judicial  
363 offices herein mentioned is to be nominated who shall  
364 deliberately, knowingly and willfully violate the provisions of  
365 this section shall forfeit his or her nomination, or if elected at  
366 the following general election by virtue of \* \* \* the nomination,  
367 his or her election shall be void.

368       **SECTION 8.** Section 23-15-1021, Mississippi Code of 1972, is  
369 amended as follows:



23-15-1021. It shall be unlawful for any individual or political action committee not affiliated with a political party to give, donate, appropriate or furnish directly or indirectly, any money, security, funds or property in excess of Two Thousand Five Hundred Dollars (\$2,500.00) for the purpose of aiding any candidate or candidate's political committee for judge of a county, justice, circuit or chancery court or in excess of Five Thousand Dollars (\$5,000.00) for the purpose of aiding any candidate or candidate's political committee for judge of the Court of Appeals or justice of the Supreme Court, or to give, donate, appropriate or furnish directly or indirectly, any money, security, funds or property in excess of Two Thousand Five Hundred Dollars (\$2,500.00) to any candidate or the candidate's political committee for judge of a county, justice, circuit or chancery court or in excess of Five Thousand Dollars (\$5,000.00) for the purpose of aiding any candidate or candidate's political committee for judge of the Court of Appeals or justice of the Supreme Court, as a contribution to the expense of a candidate for judicial office.

**SECTION 9.** Section 23-15-193, Mississippi Code of 1972, is brought forward as follows:

23-15-193. At the election in 1995, and every four (4) years thereafter, there shall be elected a Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, three (3) public service



commissioners, three (3) Mississippi Transportation Commissioners,  
Commissioner of Insurance, Commissioner of Agriculture and  
Commerce, Senators and members of the House of Representatives in  
the Legislature, district attorneys for the several districts,  
clerks of the circuit and chancery courts of the several counties,  
as well as sheriffs, coroners, assessors, surveyors and members of  
the boards of supervisors, justice court judges and constables,  
and all other officers to be elected by the people at the general  
state election. All such officers shall hold their offices for a  
term of four (4) years, and until their successors are elected and  
qualified. The state officers shall be elected in the manner  
prescribed in Section 140 of the Constitution.

**SECTION 10.** Section 23-15-833, Mississippi Code of 1972, is  
brought forward as follows:

23-15-833. Except as otherwise provided by law, the first  
Tuesday after the first Monday in November of each year shall be  
designated the regular special election day, and on that day an  
election shall be held to fill any vacancy in county, county  
district, and district attorney elective offices, and any vacancy  
in the office of circuit judge or chancellor.

All special elections, or elections to fill vacancies, shall  
in all respects be held, conducted and returned in the same manner  
as general elections, except that where no candidate receives a  
majority of the votes cast in the election, a runoff election  
shall be held three (3) weeks after the election. The two (2)



420 candidates who receive the highest popular votes for the office  
421 shall have their names submitted as the candidates to the runoff  
422 and the candidate who leads in the runoff election shall be  
423 elected to the office. When there is a tie in the first election  
424 of those receiving the next highest vote, these two (2) and the  
425 one receiving the highest vote, none having received a majority,  
426 shall go into the runoff election and whoever leads in the runoff  
427 election shall be entitled to the office.

428 In those years when the regular special election day shall  
429 occur on the same day as the general election, the names of  
430 candidates in any special election and the general election shall  
431 be placed on the same ballot, but shall be clearly distinguished  
432 as general election candidates or special election candidates. At  
433 any time a special election is held on the same day as a party  
434 primary election, the names of the candidates in the special  
435 election may be placed on the same ballot, but shall be clearly  
436 distinguished as special election candidates or primary election  
437 candidates.

438 **SECTION 11.** Section 23-15-849, Mississippi Code of 1972, is  
439 brought forward as follows:

440 23-15-849. (1) Vacancies in the office of circuit judge or  
441 chancellor shall be filled for the unexpired term by the qualified  
442 electors at the next regular special election occurring more than  
443 nine (9) months after the vacancy to be filled occurred, and the  
444 term of office of the person elected to fill a vacancy shall



commence on the first Monday in January following the election.  
Upon the occurrence of a vacancy, the Governor shall appoint a  
qualified person from the district in which the vacancy exists to  
hold the office and discharge the duties thereof until the vacancy  
is filled by election as provided in this subsection.

(2) (a) If half or more than half of the term remains,  
vacancies in the office of justice of the Supreme Court or judge  
of the Court of Appeals shall be filled for the unexpired term by  
the qualified electors at the next regular election for state  
officers or for representatives in Congress occurring more than  
nine (9) months after the vacancy to be filled occurred, and the  
term of office of the person elected to fill a vacancy shall  
commence on the first Monday in January following the election.  
If less than half of the term remains, vacancies in the office of  
justice of the Supreme Court or judge of the Court of Appeals  
shall be filled for the remaining unexpired term solely by  
appointment as provided in this subsection.

(b) Upon occurrence of a vacancy, the Governor shall  
appoint a qualified person from the district in which the vacancy  
exists to hold the office and discharge the duties thereof as  
follows:

(i) If less than half of the term remains, the  
appointee shall serve until expiration of the term;

(ii) If half or more than half of the term  
remains, the appointee shall serve until the vacancy is filled by



470 election as provided in subsection (1) of this section for judges  
471 of the circuit and chancery courts. Elections to fill vacancies  
472 in the office of justice of the Supreme Court or judge of the  
473 Court of Appeals shall be held, conducted, returned and the  
474 persons elected commissioned in accordance with the law governing  
475 regular elections for justices of the Supreme Court or judges of  
476 the Court of Appeals to the extent applicable.

477       **SECTION 12.** This act shall take effect and be in force from  
478 and after July 1, 2020.

